

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. Claims 1, 2, 5-9 and 21-30 stand finally rejected. In response, Applicants are filing a Request for Continued Examination (RCE) and this Amendment. Applicants respectfully request reconsideration and withdrawal of the rejections presented in the outstanding Office Action.

On May 27, 2010 and June 2, 2010, Applicants' representatives conducted telephone interviews with the Examiner and a Supervisor. The outstanding Office Action was discussed along with the claims and the cited references. The Examiners indicated their preference for having certain claim limitations introduced in order to clarify the meaning of certain claimed elements that were allegedly unclear. The Examiners also indicated their preference for filing of an RCE to introduce these amendments, as further search and consideration would be required. If an RCE were submitted, the Examiner agreed to conduct a follow up interview if there were any further outstanding issues precluding allowance; such follow up interview to be conducted before the issuance of a further office action. Applicants' representatives agreed to remind the Examiner about the follow up interview by way of a telephone call if an RCE was indeed submitted.

It should be noted that Applicants are not conceding in this application the claims amended herein are not patentable over the art cited by the Examiner, as the claim amendments are only presented for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no

amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claim Objections

Claims 6 and 26 have been amended to correct minor informalities.

Rejections under 35 USC § 102

Claims 7-9 and 24-29 stand rejected under Section 102(b) as being unpatentable over U.S. Patent No. 5,987,140 to Rowney (hereinafter “Rowney”). Reconsideration and withdrawal of these rejections are hereby respectfully requested.

Applicants have repeatedly stated their disagreement with the Examiner’s interpretation of the references, particularly Rowney. As such, Applicants incorporate their previous remarks of December 4, 2009 here. To be clear, Applicants respectfully submit that Rowney teaches a system where the merchant and customer communicate directly to complete transactions, which is one of the many reasons the reference is inapplicable to the claims.

In this regard, the Examiner is no doubt aware that “[a]lthough the PTO emphasizes that it [is] required to give all claims their broadest reasonable construction...[The Federal Circuit] has instructed that any such construction be consistent with the specification, and that the claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Suitco Surface, Inc.*, p. 8 (Fed. Cir. April 14, 2010) (available at <http://www.cafc.uscourts.gov/opinions/09-1418.pdf>) (internal quotations and citations

omitted) (emphasis in original). “The broadest-construction rubric coupled with the term “comprising” does not give the PTO an unfettered license to interpret claims to embrace anything remotely related to the claimed invention. Rather, claims should always be read in light of the specification and teachings in the underlying patent.” *Id.* Therefore, “...the PTO’s “broadest” interpretation must be reasonable, and must be in conformity with the invention as described in the specification.” *In re Vaidyanathan*, p. 21 (Fed. Cir. May 19, 2010) (available at <http://www.cafc.uscourts.gov/opinions/09-1404.pdf>).

Applicants respectfully submit that a reasonable construction of the claims would lead one of ordinary skill in the art to recognize that Rowney is clearly directed to a different system configuration and method as compared to that of the claims, even as previously presented.

Nonetheless, in view of the extended prosecution of this application, Applicants have amended the claims solely in an effort to facilitate expeditious prosecution of this application. Support for these amendments can be found throughout the specification, particularly at p. 4, lines 20 and p. 6, line 30-p. 7, line 4. Applicants respectfully submit that the claims are in condition for allowance.

Rejections under 35 U.S.C. § 103(a)

The remaining claims stand rejected under § 1039(a) as being unpatentable over Rowney in some combination with Sirbu et al. (U.S. Patent No. 5,809,144, hereinafter “Sirbu”), and Shavit (U.S. Patent No. 4,799,156) or Rosen (U.S. Patent No. 5,671,280). Applicants respectfully disagree.

Applicants respectfully submit that the previous claims were not rendered obvious by these combinations. First, Applicants respectfully submit that Rowney does not teach what the Examiner cites it for, as above, and that no other reference of record accounts for this deficiency. Moreover, Applicants respectfully submit that Sirbu does not teach what the Examiner cites it for. The Examiner seems to think that Sirbu teaches or suggests that the user and the merchant need not contact one another. Applicants respectfully submit that this is simply incorrect and the Examiner is misconstruing the teachings of Sirbu regarding FIG. 4.

Nonetheless, the claims have been amended as above solely in order to facilitate expeditious prosecution of this case. Applicants therefore respectfully submit that the claims are in condition for allowance.

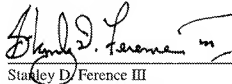
Newly Presented Claim

Applicants are presenting new claim 31 herein. Support for these amendments can be found throughout the specification, particularly at p. 4, lines 20 and p. 6, line 30-p. 7, line 4. Applicants respectfully submit that this claim is currently in condition for allowance.

Conclusion

In summary, it is respectfully submitted that the instant application is presently in condition for allowance. Notice to that effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stanley D. Ference III", is written over a horizontal line.

Stanley D. Ference III
Registration No. 33,879

Customer No. 35195
FERENCE & ASSOCIATES LLC
409 Broad Street
Pittsburgh, Pennsylvania 15143
(412) 781-8400
(412) 781-9292 - Facsimile

Attorneys for Applicants